

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

KEYBANK NATIONAL ASSOCIATION,

Plaintiff, and

CAPITAL COMMUNICATIONS
FEDERAL CREDIT UNION,

Intervenor,

-v-

1:19-CV-1562

MONOLITH SOLAR ASSOCIATES
LLC, et al.,

Defendants.

APPEARANCES:

OF COUNSEL:

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JUSTIN A. HELLER, ESQ.
FRANCIS J. BRENNAN, ESQ.
JOHN V. HARTZELL, ESQ.

DAVID N. HURD
United States District Judge

**ORDER AUTHORIZING SALE OF ASSETS FREE AND CLEAR OF
LIENS AND ENCUMBRANCES**

Upon the motion of Daniel Scouler, the Court's appointed Receiver (the "Receiver"), dated February 18, 2021 ("Motion") seeking an Order approving the sale free and clear of all liens and encumbrances of certain Receivership Property consisting of certain solar photovoltaic generation facilities, each financed with loans from Plaintiff KeyBank National Association under the terms of a Letter of Intent dated February 17, 2021 by and among Monolith Solar Associates LLC and SL Empire Solar II, LLC, a subsidiary of Sunlight General Capital, LLC ("Sale"); and it appearing that the Sale is authorized

under ¶ 17 of this Court's Order of Appointment dated December 20, 2019 (Dkt. 7) as modified (Dkts. 30, 96), subject to Court approval, that the proceeds of Sale would be beneficial to the Receivership Estate; and upon considering the objections lodged by defendant Steven Erby; the Court finds as follows:

A. The Court has authority to approve the Motion and the Sale pursuant to 28 U.S.C. §§ 2001 and 2004 as well as Federal Rule of Civil Procedure 66;

B. Proper and sufficient notice of the Motion has been provided. No other or further notice is required, and a reasonable opportunity to object or be heard regarding the relief requested in the Motion and the transactions pursuant thereto has been afforded to all interested persons and entities entitled to notice of the Motion. Defendant Steven Erby's objections to the Motion are overruled;

C. Approval of the Sale free and clear of liens and encumbrances is necessary in order to facilitate the Receiver's sale of assets and will not prejudice any party with an interest in the subject assets: (1) accrued real property taxes owing on the subject assets will be paid at or prior to closing; and (2) each entity with a lien or encumbrance upon the subject assets has consented to the Sale or did not object to the Motion and is deemed to have consented to the Sale;

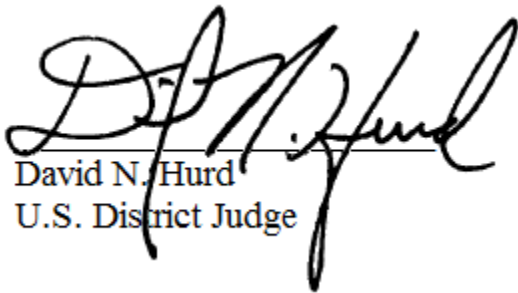
Therefore, it is

ORDERED that

1. The Motion is granted;
2. Any remaining objections to the Motion or the relief it requests that have not been withdrawn, waived, or settled are overruled in all respects and denied; and
3. The Receiver is authorized to execute the Letter of Intent submitted with the Motion, and to take all actions he reasonably deems necessary to consummate the Sale, free and clear of all liens and encumbrances as set forth above.

IT IS SO ORDERED.

Dated: March 11, 2021
Utica, New York.



David N. Hurd
U.S. District Judge